

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL TRANSIT ADMINISTRATION,
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,
CITY OF GREENVILLE
AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
FOR
GREENVILLE DOWNTOWN INTERMODAL TRANSPORTATION CENTER
GREENVILLE, NORTH CAROLINA**

WHEREAS, the Federal Transit Administration (FTA) plans to fund eighty percent (80%), the North Carolina Department of Transportation (NCDOT) plans to fund ten percent (10%), and the City of Greenville plans to fund ten percent (10%) of an Intermodal Bus Transportation Center in downtown Greenville, North Carolina (the Undertaking); and

WHEREAS, the FTA has determined that the Undertaking will affect the Jones-Lee House, a property listed in the National Register of Historic Places (NRHP), the Greenville Art Museum and former Pure Oil Service Station, properties eligible for listing in the NRHP; and

WHEREAS, the FTA has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. § 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, the FTA has consulted with the North Carolina Department of Transportation (NCDOT) and the City of Greenville (City), both of which are providing additional funding for the Undertaking, and has invited them to sign this Memorandum of Agreement (MOA) as signatories; and

WHEREAS, the FTA has invited the Greenville Historic Preservation Commission (Commission) to participate in the consultation and invited it to concur in this MOA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), FTA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii);

NOW, THEREFORE, the FTA, NCDOT, City, and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

FTA shall ensure that the following measures are carried out:

I. RECORDATION OF HISTORIC PROPERTIES

A. Prior to any construction taking place, the City shall record the current condition of the Jones-Lee House, Greenville Art Museum and former Pure Oil Service Station using the Recordation Plan attached to this MOA as Appendix A. The results of the recordation shall be provided to the SHPO for review and acceptance prior to any work taking place on the site of the Undertaking. The City will provide a set of the accepted results to the SHPO, the Eastern Office of Archives and History, and the Greenville Historic Preservation Commission so that there is a permanent record of the historic properties prior to construction of the Undertaking.

B. The Commission shall cause to be prepared, in accordance with the local regulations and guidance for such reports, a local designation report for the Greenville Art Museum building and the former Pure Oil Service Station. The reports shall be provided to the SHPO and Eastern Office of Archives and History for their records. The Commission, after consultation with the owners of the properties, may or may not move forward with the local designation process. The Commission shall inform the SHPO as to the City's decision on local designation.

II. MOVE AND REUSE OF JONES-LEE HOUSE

A. The original/current location of the Jones-Lee House no longer conveys the sense of place or residential neighborhood in which the house was built. Rather, it is isolated from comparable residences by a mixture of institutional and commercial buildings and vacant/parking lots. To mitigate this situation as well as avoid demolition of the property, the City shall purchase and move the Jones-Lee House to a new location that is comparable to its original/historic setting and stabilize the house in such a way as to protect it from vandalism and structural damage. The proposed new location and stabilization plan will be submitted to the SHPO for review and comment prior to the removal of the Jones-Lee House from its foundation.

B. A Preservation Covenant that runs with the land to which the Jones-Lee House is moved shall be incorporated into the Deed of Transfer to the City to ensure that the house is rehabilitated in accord with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation* and that the property is preserved in perpetuity. The covenant shall contain, at a minimum, the language found in Appendix B to this MOA and be reviewed by the SHPO prior to incorporation into the deed.

C. No part of this MOA is intended to require the sale of the Jones-Lee House by the City. However, if the City determines to sell the house, the City shall inform the SHPO as to the name(s) and address of any new owner(s). The Preservation Covenant shall be made a part of any Deed of Transfer as a result of such a sale.

III. DESIGN AND LANDSCAPING OF NEW BUS TRANSFER CENTER

A. The design and layout of the new bus transfer center shall take into consideration the proximity of the Greenville Art Museum and former Pure Oil Service Station. Plans for the facility will provide for a landscaped buffer along Evans Street and the routing of bus traffic so

as to reduce noise and pollution to these properties.

B. The SHPO will be afforded an opportunity to review and comment on the plans for the new facility and its landscaping as they are developed through the planning and design process, including schematics, design development, and final plans and specifications. The SHPO will provide comments on each design phase within thirty (30) days of receipt of a review package.

IV. TREATMENT OF HUMAN REMAINS AND FUNERARY OBJECTS

The City, in consultation with SHPO, NCDOT and FTA, shall ensure that the treatment of any human remains and associated funerary objects discovered within the project area complies with all applicable state and federal laws. Should human remains be encountered during post-review discovery, all ground disturbing activities within 50 feet of the discovery will be ceased immediately. The remains will be treated with respect to the deceased, and shall be protected from the time of discovery from further construction activities pending consultation to resolve treatment of such remains.

The City shall immediately notify NCDOT, FTA, the North Carolina State Archaeologist and the Pitt County Medical Examiner should any human remains and/or associated funerary objects be encountered in connection with any activity covered by this Agreement.

To satisfy the FTA's responsibilities under Section 106 of the National Historic Preservation Act, as amended, the FTA shall consult with the other parties to this MOA concerning the treatment and disposition of these remains

If appropriate, the State Archaeologist shall consult with the Executive Director of the North Carolina Commission of Indian Affairs regarding the treatment and disposition of the remains, as required by North Carolina General Statute (G.S.) 70, Article 3 (The Unmarked Human Burial and Human Skeletal Remains Protection Act). When feasible, human remains may be preserved in place.

The City, in consultation with FTA, NCDOT and the SHPO, shall ensure that those remains and artifacts are treated in a manner consistent with the Advisory Council of Historic Preservation's "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (2007). Further, discovery and treatment of human remains and graves other than those reasonably identified as Native American may require application of North Carolina General Statutes (G.S.) 14-148 (Defacing or desecrating grave sites); G.S. 14-149, (Desecrating, plowing over or covering up graves; desecrating human remains); G.S. 65-106 (Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required); in addition to G.S. 70, Article 3, (The Unmarked Human Burial and Human Skeletal Remains Protection Act).

V. UNANTICIPATED DISCOVERIES

If, during the implementation of the project, a previously unidentified historic property is encountered, or a previously identified historic property is affected in an unanticipated manner, the District will consult with the other parties to this MOA, and will ensure that all work shall cease in the area of the discovery until the previously unidentified historic property or unanticipated effect

can be evaluated, and an appropriate treatment plan developed, pursuant to 36CFR800. If human remains are discovered, consultation shall proceed as outlined in Stipulation IV, above.

VI. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the FTA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below.

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FTA shall consult with such party to resolve the objection. If the FTA determines that such objection cannot be resolved, FTA will:

A. Forward all documentation relevant to the dispute, including the FTA's proposed resolution, to the ACHP. The ACHP shall provide the FTA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FTA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FTA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

The FTA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. TERMINATION

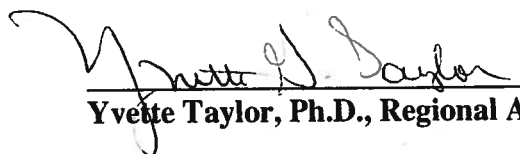
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VI, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, the FTA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. FTA shall notify the signatories as to the course of action it will pursue.

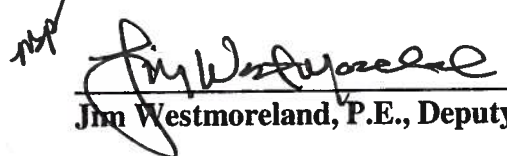
Execution of this MOA by the FTA, NCDOT, City and North Carolina SHPO, and implementation of its terms evidence that the FTA has taken into account the effects of the Undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Transit Administration

 Date _____
Yvette Taylor, Ph.D., Regional Administrator

North Carolina Department of Transportation

 Date 12/14/09
Jim Westmoreland, P.E., Deputy Secretary for Transit

City of Greenville

 Date 11-19-09
Wayne Bowers, City Manager

North Carolina State Historic Preservation Officer


 Date 12/14/09
Jeffrey J. Crow

CONCURRING PARTY:

Greenville Historic Preservation Commission

 Date 11/19/09
Ryan Webb, Chairman

APPROVED AS TO FORM:

 Date 11/19/09
David A. Holec, City Attorney

PREAUDIT CERTIFICATION: This instrument has been pre-audited in the manner approved by the Local Government Budget and Fiscal Control Act.

 Date 11/19/09
Bernita Demery
Director of Financial Services

FILED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION:

_____ Date